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Nevada Bar No. 5168
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3 Las Vegas, Nevada 89102
Phone (702) 243-7000
4 Facsimile (702) 243-7059

5 Attorneys for Defendant

6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

8 SANDI GEANNARIS,
9 Plaintiff,

10 vs.

11 AMERICAN FAMILY MUTUAL
12 INSURANCE COMPANY; DOES 1-10,
13 inclusive; ROE CORPORATIONS 1-10,
inclusive,

14 Defendants.

CASE NO.:
DEPT. NO.:

PETITION FOR REMOVAL

15 Defendant, AMERICAN FAMILY MUTUAL INSURANCE COMPANY, now petitions
16 this Court for the removal of the above-entitled case from the District Court to the State of Nevada
17 in and for the County of Clark, where it is now pending, to the United States District Court for the
18 District of Nevada at Las Vegas pursuant to 28 U.S.C. Section 1441(a) et seq.

19 II.

20 Plaintiff commenced the above-referenced matter in the Eighth Judicial District Court for
21 the State of Nevada in and for the County of Clark as Case Number A615655 (Department XVI) on
22 May 6, 2010. Service of Summons and Complaint on the Defendant American Family Insurance
23 was made on May 7, 2010 by serving the Las Vegas branch of the Insurance Commissioner's
24 Office. The action is currently pending in the District Court, Clark County, Nevada. A copy of the
25 Plaintiffs' Complaint setting forth the claims for relief upon which the action is based is attached
26 hereto along with the appropriate copies of process and by this reference made a part hereof.

27 III.
28

ATKIN WINNER & SHERROD
ATTORNEYS AT LAW
1117 SOUTH RANCHO DRIVE
LAS VEGAS, NEVADA 89102
PHONE (702) 243-7000 FACSIMILE (702) 243-7059

1 The Doe and Roe Defendants in this action have not been identified and are merely nominal
2 parties without relevance to the action.

3 IV.

4 This is a civil action for the alleged breach of an implied covenant of good faith and fair
5 dealing arising out of an insurance contract as well as for breach of same insurance contract, which
6 includes allegations of "bad faith" and claims for punitive damages.

7 V.

8 This Court has original jurisdiction under 28 U.S.C. Section 1332(a) based on diversity of
9 citizenship.

10 VI.

11 At the time of the commencement of this action and since that time, the Plaintiff, was and is
12 an individual citizen and a resident of the State of Nevada as plead in Paragraph 1 of the "First
13 Claim of Relief" section of Plaintiff's Complaint, attached hereto.

14 VII.

15 The Defendant, AMERICAN FAMILY MUTUAL INSURANCE, is a duly licensed
16 corporation incorporated in the State of Wisconsin with its principal place of business in the State of
17 Wisconsin.

18 VIII.

19 That upon information and belief, AMERICAN FAMILY MUTUAL INSURANCE
20 COMPANY believes the Plaintiff's claim in the matter in controversy exceeds \$75,000.00
21 exclusive of interest and costs.

22 ///

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24 ///

25 ///

26 ///

27 ///

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IX.

This Petition for Removal is timely filed under 28 U.S.C. Section 1446(b).

DATED this 8th day of June, 2010.

ATKIN WINNER & SHERROD

/s/ Thomas E. Winner

Thomas E. Winner
Nevada Bar No. 5168
1117 South Rancho Drive
Las Vegas, Nevada 89102
Attorneys for Defendant

ATKIN WINNER & SHERROD
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1117 SOUTH RANCHO DRIVE
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EXHIBIT A

JIM GIBBONS
Governor

STATE OF NEVADA

SCOTT J. KIPPER
Commissioner of Insurance

DIANNE CORNWALL
Director



DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE

2501 E. Sahara Avenue, No. 302

Las Vegas, Nevada 89104

(702) 486-4009 • Fax (702) 486-4007

E-mail: insinfo@doi.state.nv.us

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

7008 1830 0003 5446 3200

AMERICAN FAMILY MUTUAL INSURANCE COMPANY
C/O CHRISTOPHER S. SPENCER
6000 AMERICAN PARKWAY
MADISON, WI 53783-0001

Re: Case No. **A10615655**
Case Name: **Geannaris v. American Fam. Mut. Ins. Co.**

Dear Mr. Spencer:

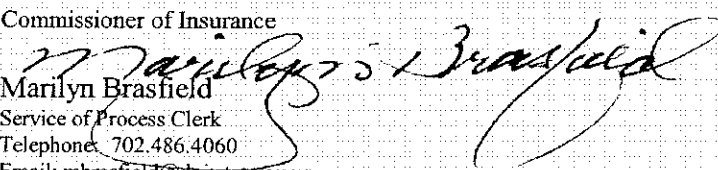
The enclosed Summons and Complaint in the matter referenced above, were delivered to the office of the Commissioner of Insurance, on May 6, 2010, in accordance with NRS 680A.260. To complete service of process, we are forthwith mailing by certified mail one of the copies of such process to you, the person designated by the insurer to receive such.

Also enclosed herein is a true and correct copy of the Proof of Service in this matter dated May 7, 2010, and a copy of our letter to Plaintiff's counsel, dated May 7, 2010.

You have 30 days from the date of this service to respond.

If you have any questions regarding this service, please do not hesitate to contact us.

Cordially yours,
SCOTT J. KIPPER
Commissioner of Insurance


Marilyn Brasfield
Service of Process Clerk
Telephone: 702.486.4060
Email: mbrasfield@doi.state.nv.us
Enclosures

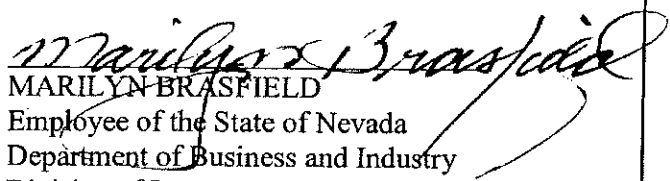
PROOF OF SERVICE

I hereby declare that on this day I served a copy of the Summons and Complaint upon defendant **AMERICAN FAMILY MUTUAL INSURANCE COMPANY** in the within entitled matter, by mailing a copy thereof, properly addressed with postage prepaid, certified mail, return receipt requested, to the following:

**C/O CHRISTOPHER S. SPENCER
6000 AMERICAN PARKWAY
MADISON, WI 53783-0001**

I declare, under penalty of perjury, that the foregoing is true and correct.

DATED this 7th day of May, 2010.


MARILYN BRASFIELD
Employee of the State of Nevada
Department of Business and Industry
Division of Insurance

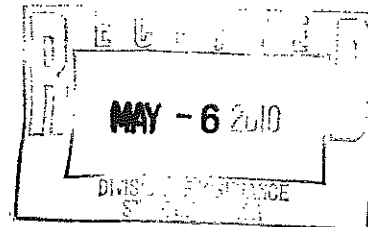
Court: Eighth Judicial District Court, Clark County, Nevada
Case Name: Geannaris v. American Fam. Mut. Ins. Co.
Case No. A10615655
Certified Receipt No. 7008 1830 0003 5446 3200

5-7-10 

Electronically Filed
05/04/2010 08:34:38 AM

Alvin L. Blum

CLERK OF THE COURT



1 COMP
2 Patrick J. Murphy, Esq.
3 Nevada Bar No. 1222
4 Michael R. Small, Esq.
5 Nevada Bar No. 7519
6 MURPHY, SMALL & ASSOCIATES
7 1100 East Bridger Avenue
8 Las Vegas, Nevada 89101-5315
9 Telephone: (702) 259-4600
10 Facsimile: (702) 259-4748
11 debbie@patrickmurphylaw.com
12 Attorneys for Plaintiff

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DISTRICT COURT

CLARK COUNTY, NEVADA

SANDI GEANNARIS,

Plaintiff,

vs.

AMERICAN FAMILY MUTUAL
INSURANCE COMPANY; DOES 1-10,
inclusive; ROE CORPORATIONS 1-10,
inclusive;

Defendants.

Case No.: A-10-615655-C

Dept. No.: XVI

COMPLAINT

Plaintiff, SANDI GEANNARIS, by and through her attorney, Patrick J. Murphy, Esq.,
alleges as follows:

FIRST CLAIM FOR RELIEF

1. That at all times mentioned herein, Plaintiff, Sandi Geannaris, was and is a
resident of the County of Clark, City of Las Vegas, State of Nevada.

////

1 2. At all times mentioned herein, Defendant, American Family Mutual Insurance
2 Company, was and is a corporation duly licensed to contract insurance business in the State of
3 Nevada.

4
5 3. The true names and capacities, whether individual, corporate, co-partnership,
6 associate or otherwise, of DOES 1 through 10 and ROE CORPORATIONS 1 through 10, are
7 unknown to Plaintiff, who therefore sues said Defendants by said fictitious names. Plaintiff is
8 informed and believes, and therefore alleges that each of the Defendants designated as DOE
9 and/or ROE are responsible in some manner for the events and happenings referred to herein.
10 Plaintiff requests leave of the Court to amend the Complaint to insert the true names and
11 capacities of said Defendants in this action, and assert the appropriate charging allegations.

12
13 4. On January 27, 2009, at approximately 3:50 p.m., a collision occurred between
14 Plaintiff's vehicle and a vehicle driven by Aaron Miller, wherein Mr. Miller's vehicle collided
15 into the rear of Plaintiff's vehicle, on a roadway commonly known as Rainbow Boulevard in the
16 County of Clark, State of Nevada. The collision was a direct result of the careless and negligent
17 act of Aaron Miller. As a result of Mr. Miller's careless and negligent act, Plaintiff sustained
18 serious personal injuries.

19
20 5. The collision proximately caused Plaintiff, Sandi Geannaris, to sustain serious
21 and disabling injuries, some and/or all of which are permanent in nature.

22
23 6. At the time of said collision, Plaintiff was an insured with Defendant, American
24 Family Mutual Insurance Company, under a policy of automobile insurance, Policy Number
25 16247707-0391FPPANV, which afforded, among other coverages, Medical Expense Coverage
26 of \$25,000. By virtue of this relationship between the Defendant, as insurer, and the Plaintiff, as
27
28

1 insured, the Defendant owed a duty of good faith to the Plaintiff in paying all medical expenses
2 incurred by the Plaintiff as a result of the subject vehicle accident.

3
4 7. Defendant, American Family Mutual Insurance Company, is responsible to
5 reimburse Plaintiff and/or Plaintiff's medical care providers for all medical expenses incurred
6 by the Plaintiff up to the \$25,000 Medical Expense Coverage, that she incurred in the above
7 mentioned accident.

8
9 8. Plaintiff Sandi Geannaris' medical care providers have submitted medical bills
10 incurred as a result of the above mentioned accident to be reimbursed from Plaintiff's Medical
11 Expense Coverage. Since October 30, 2009, and to the present time, Defendant, American
12 Family Mutual Insurance Company, has delayed, stalled, obfuscated and otherwise steadfastly
13 refused to pay the reasonable medical expenses incurred by the Plaintiff. Further, with respect
14 to what the Defendants themselves deemed to be the reasonable medical expenses incurred as a
15 result of the above mentioned accident, the Defendants acted in utter bad faith in denying
16 payment of all medical expenses incurred after February 28, 2009. From October 30, 2009, to
17 the present and prospectively into the future, the Plaintiff has and will continue to very promptly
18 and completely comply with all legitimate requests made by the Defendants in substantiation of
19 her Medical Expense Coverage claim. Despite the promptness and completeness of the Plaintiff
20 to requests made by the Defendant, the stall, delay and obfuscation on the part of Defendant
21 continues unreasonably.

22
23
24 9. That the Plaintiff has made a demand upon Defendant, American Family Mutual
25 Insurance Company, to pay the medical expenses incurred by the Plaintiff as a result of the
26 above mentioned accident, and the Defendant has failed and has refused to pay Plaintiff's
27
28

1 medical expenses that she is entitled to collect under this policy and coverage, despite demands
2 from the Plaintiff.

3
4 10. That the medical expenses incurred by the Plaintiff were timely submitted, and
5 were documented and supported by the medical records and medical bills that were incurred by
6 the Plaintiff, and therefore, the Defendant's refusal to pay such benefits is unreasonable and
7 unjustified.

8
9 11. That the Defendant, American Family Mutual Insurance Company, breached the
10 implied covenant of good faith and fair dealing under its policy of insurance issued, and such
11 refusal has been willful, deliberate and the conduct of the Defendant has proximately caused the
12 Plaintiff to suffer, and she will continue to suffer in the future, all to Plaintiffs damages in an
13 amount in excess of \$10,000.

14
15 12. That the aforementioned acts and omissions on the part of Defendant, American
16 Family Mutual Insurance Company, were willful and malicious, and exhibited a course of
17 conduct and method of dealing with Plaintiff, as to constitute oppression, fraud or malice,
18 thereby entitling Plaintiff to punitive and/or extra contractual damages that are reasonably
19 necessary and fairly deserved, in order to punish Defendant, and to deter others from similar
20 conduct, in an amount in excess of \$10,000.

21
22 13. That the Plaintiff has performed all necessary acts and requirements for coverage
23 and payment by Defendant, American Family Mutual Insurance Group.

24
25 14. That the Plaintiff has retained the services of an attorney to prosecute this matter,
26 and is therefore entitled to reasonable attorney's fees and cost of suit herein.

27 WHEREFORE, Plaintiff prays for judgment against the Defendants, and each of them, as
28 follows:

- 1 1. For judgment against Defendant for contractual damages, general
2 damages, compensatory damages, extra-contractual damages, and punitive and exemplary
3 damages, in an amount in excess of \$10,000;
4
- 5 2. For reasonable attorney's fees of suit herein;
- 6 3. For pre-judgment and post-judgment interest as provided by law; and
- 7 4. For such other further relief as the Court may deem just and proper in the
8 premises.

9 DATED this 4th day of May, 2010.
10

11 MURPHY, SMALL & ASSOCIATES
12

13 /s/ Patrick J. Murphy
14 Patrick J. Murphy, Esq.
15 Nevada Bar No. 1222
16 Michael R. Small, Esq.
17 Nevada Bar No. 7519
18 1100 East Bridger Avenue
19 Las Vegas, Nevada 89101
20 Attorneys for Plaintiff
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22
23
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EXHIBIT B

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Sandi Geannaris

(b) County of Residence of First Listed Plaintiff Clark
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Patrick Murphy, 1100 E. Bridger Ave., Las Vegas, Nevada, 89101; (702) 259-4000

DEFENDANTS

American Family Mutual Insurance Company

County of Residence of First Listed Defendant Wisconsin
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known) Thomas Winner / #5168, 1117 South Baracho Drive, Las Vegas, NV 8902 (702) 243-7000

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

- | | | | | | |
|---|--|---|--|--|--|
| <input checked="" type="checkbox"/> 110 Insurance | <input type="checkbox"/> 310 Airplane | <input type="checkbox"/> 362 Personal Injury - Med. Malpractice | <input type="checkbox"/> 610 Agriculture | <input type="checkbox"/> 422 Appeal 28 USC 158 | <input type="checkbox"/> 400 State Reapportionment |
| <input type="checkbox"/> 120 Marine | <input type="checkbox"/> 315 Airplane Product Liability | <input type="checkbox"/> 365 Personal Injury - Product Liability | <input type="checkbox"/> 620 Other Food & Drug | <input type="checkbox"/> 423 Withdrawal 28 USC 157 | <input type="checkbox"/> 410 Antitrust |
| <input type="checkbox"/> 130 Miller Act | <input type="checkbox"/> 320 Assault, Libel & Slander | <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 | <input type="checkbox"/> 820 Copyrights | <input type="checkbox"/> 430 Banks and Banking |
| <input type="checkbox"/> 140 Negotiable Instrument | <input type="checkbox"/> 330 Federal Employers' Liability | <input type="checkbox"/> 370 Other Fraud | <input type="checkbox"/> 630 Liquor Laws | <input type="checkbox"/> 830 Patent | <input type="checkbox"/> 450 Commerce |
| <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment | <input type="checkbox"/> 340 Marine | <input type="checkbox"/> 371 Truth in Lending | <input type="checkbox"/> 640 R.R. & Truck | <input type="checkbox"/> 840 Trademark | <input type="checkbox"/> 460 Deportation |
| <input type="checkbox"/> 151 Medicare Act | <input type="checkbox"/> 345 Marine Product Liability | <input type="checkbox"/> 380 Other Personal Property Damage | <input type="checkbox"/> 650 Airline Regs. | <input type="checkbox"/> 861 HIA (1395ff) | <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations |
| <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) | <input type="checkbox"/> 350 Motor Vehicle | <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 660 Occupational Safety/Health | <input type="checkbox"/> 862 Black Lung (923) | <input type="checkbox"/> 480 Consumer Credit |
| <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits | <input type="checkbox"/> 355 Motor Vehicle Product Liability | <input type="checkbox"/> 510 Motions to Vacate Sentence | <input type="checkbox"/> 690 Other | <input type="checkbox"/> 863 DIWC/DIWW (405(g)) | <input type="checkbox"/> 490 Cable/Sat TV |
| <input type="checkbox"/> 160 Stockholders' Suits | <input type="checkbox"/> 360 Other Personal Injury | <input type="checkbox"/> 530 General | <input type="checkbox"/> 710 Fair Labor Standards Act | <input type="checkbox"/> 864 SSID Title XVI | <input type="checkbox"/> 510 Selective Service |
| <input type="checkbox"/> 190 Other Contract | | <input type="checkbox"/> 535 Death Penalty | <input type="checkbox"/> 720 Labor/Mgmt. Relations | <input type="checkbox"/> 865 RSI (405(g)) | <input type="checkbox"/> 520 Securities/Commodities/Exchange |
| <input type="checkbox"/> 195 Contract Product Liability | | <input type="checkbox"/> 540 Mandamus & Other | <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) | <input type="checkbox"/> 530 Securities Challenge 12 USC 3410 |
| <input type="checkbox"/> 196 Franchise | | <input type="checkbox"/> 550 Civil Rights | <input type="checkbox"/> 740 Railway Labor Act | <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 540 Agricultural Acts |
| <input type="checkbox"/> 210 Land Condemnation | <input type="checkbox"/> 441 Voting | <input type="checkbox"/> 555 Prison Condition | <input type="checkbox"/> 790 Other Labor Litigation | | <input type="checkbox"/> 550 Economic Stabilization Act |
| <input type="checkbox"/> 220 Foreclosure | <input type="checkbox"/> 442 Employment | | <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act | | <input type="checkbox"/> 560 Environmental Matters |
| <input type="checkbox"/> 230 Rent Lease & Ejectment | <input type="checkbox"/> 443 Housing/Accommodations | | | | <input type="checkbox"/> 570 Energy Allocation Act |
| <input type="checkbox"/> 240 Torts to Land | <input type="checkbox"/> 444 Welfare | | | | <input type="checkbox"/> 580 Freedom of Information Act |
| <input type="checkbox"/> 245 Tort Product Liability | <input type="checkbox"/> 445 Amer. w/Disabilities - Employment | | <input type="checkbox"/> 462 Naturalization Application | | <input type="checkbox"/> 590 Appeal of Fee Determination Under Equal Access to Justice |
| <input type="checkbox"/> 290 All Other Real Property | <input type="checkbox"/> 446 Amer. w/Disabilities - Other | | <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee | | <input type="checkbox"/> 600 Constitutionality of State Statutes |
| | <input type="checkbox"/> 440 Other Civil Rights | | <input type="checkbox"/> 465 Other Immigration Actions | | |

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USC 1332 and 28 USC 1441

Brief description of cause:

Breach of Contract / Bad Faith

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 ☐ DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

6-8-10

[Signature]

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____